



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 10, 2008

Representative James Phinizy, Chairman
Environment and Agriculture Committee
Legislative Office Building, Room 303
Concord, NH 03301

SUBJECT: HB 1429 - Relative to private landfills

Dear Chairman Phinizy and Members of the Committee:

Thank you for the opportunity to provide testimony about House Bill 1429. This legislation allows municipalities to regulate the height of landfills; requires existing landfills to meet the requirement for obtaining a new facility permit when proposing material modifications; requires the Department of Environmental Services (Department) to consider the ability of host municipalities to manage the risks associated with a proposed landfill; and establishes a moratorium on the permitting of landfills. The Department has significant concerns with the provisions of this bill as currently drafted.

The purpose of the New Hampshire Solid Waste Management Act, RSA 149-M, is "... to protect human health, to preserve the natural environment, and to conserve precious and dwindling natural resources through the proper and integrated management of solid waste." It grants to the Department the responsibility and authority for administration and enforcement of the law, regulation of solid waste facilities through a permit system, and statewide solid waste planning. A review of the legislative and legal history of RSA 149-M reveals that it provides for broad state law preemption of local authority in the majority of matters pertaining to regulation of solid waste facilities. The Department believes that the legislature has correctly constructed this regulatory framework to ensure that the citizens of New Hampshire are provided with a safe and effective solid waste management program. The Department does not believe that any changes to this regulatory framework are necessary or warranted at this time.

The Department does recognize that hosting a commercial solid waste facility can pose potential burdens on the host community, particularly if that community is a small town. In some cases, commercial facilities enter into agreements with host communities to provide assistance, both financial and otherwise, to ease those potential burdens. In other cases, such mutual agreements cannot be reached between the facility owner and the host community. We would encourage the legislature to explore ways in which those potential burdens could be addressed with respect to communities that have not entered

HB 1429

January 10, 2008

Page 2

into a host agreement. The Department believes that this issue warrants further study. We would be pleased to participate in the discussion, and to provide any assistance that we can toward addressing this important matter.

In summary, the Department has significant concerns about HB 1429 as currently drafted, and, as outlined above, would be pleased to participate in further study. If you have any questions regarding this letter of testimony, please do not hesitate to call me or Mike Wimsatt, Waste Management Division Director, at 271-2905.

Sincerely,



Thomas Burack
Commissioner

cc: Bill Sponsors
Michael Wimsatt, P.G., Director, Waste Management Division
Michael Guilfooy, P.E., Waste Management Division